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THE ADVOCACY INSTITUTE

UB law team reaches top round in Vienna mediation competition

They took on the world – and very nearly won it all. UB School of Law's two-person team took second place at the Consensual Dispute Resolution Competition in Vienna, Austria, in June.

Thirty university teams were selected by competitive qualification and skill-based assessment, bringing students from countries around the world such as Australia, Brazil, India, Kenya, Lebanon, the United States, the U.K., Russia and many more. Over 90 experts, trainers and coaches from 30-plus countries worked with the students for their preparation and during the competition.

Representing UB School of Law were **Joe Lavoie** and **C.J. Cook**, third-year students and officers of the student Alternative Dispute Resolution Society. Their coach was

Steven Sugarman, a mediation practitioner and director of the Advocacy Institute's ADR Program, who said the case at issue involved a dispute between a world-class winery and a high-end wine distributor in two different countries.

The competition was unusual in that teams were judged in their roles as client and attorney, and the student mediators who facilitated the negotiation were judged as well. (UB did not field a student mediator.)

"Part of the judging was evaluating: Did the team use the mediator and mediation process effectively? How well did you use your mediation advocacy skills (vs. litigation advocacy) to represent your client? How well did you coach your client to behave wisely at the mediation? How well did you and

your client work together to achieve his interests and goals?" Sugarman says.

"Joe and C.J. were classy, friendly, respectful and culturally sensitive to all the different teams that were there," Sugarman says of the UB team. "It was good lawyering and a great setting to do it in."

The competitors were global, and so were the volunteer judges, including Judith B. Ittig '71, a well-known arbitrator and mediator based in Washington, D.C.

"I was so pleased when the Buffalo

team decided to put themselves together and prepare for this and travel all the way to Vienna," Ittig says.

She recused herself from judging any of the seven rounds, over three days, in which the UB law team appeared, but did judge the first two rounds in which the eventual victor, a team from Sofia

University in Bulgaria, competed.

"A lot of different skills are being tested," Ittig says. "We were looking for people who were creative with the problem and adaptable to what happens in the competition. Being able to adjust to how things are developing in a negotiation is key."

"They don't have to settle in order to be successful, but we judge the way in which they go about their negotiation and how well they work together and respond to each other."

The negotiation issues were a moving target, because an hour before each round the teams would receive a new set of confidential facts to which they would have to adjust their strategy.

"If we had had a little more time, we would have been able to get to a deal," says Cook, who took the role of the client throughout the



competition.

Nonetheless, he says, the competition provided valuable experience in maintaining focus over the long haul. "When you're in school or any situation, it's very easy to mentally check out," he says. "But when you're in these competitions, you have to be so focused for the whole 90 minutes. I was exhausted."

For his part, Lavoie called the competition "the best educational experience I've had while at law school. It was a lot of work, a lot of preparation, but it was an amazing experience."

In the final round, he says, the opposing team was using a delaying tactic. "I reminded them that we could just go to arbitration, because they were clearly not willing to discuss a settlement that helps us meet our interests as well as their own any further," Lavoie said. "For us, arbitration would be the best alternative to a negotiated agreement (a term of art referred to as BATNA). Somebody came up to me later and said, 'That's the best piece of BATNA waving I've ever seen.'"

"We came in second place, but we left everything on the table instead of accepting a bad deal for our client. I can't be disappointed."



Above: Joe Lavoie and C.J. Cook negotiating as a lawyer and client at a mediation, with coach Steven Sugarman taking notes for later feedback.

Inset: A sculpture in Vienna.